



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,932	02/14/2001	Dan Kikinis	007287.00033	1334
22907 7590 03/17/2009 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER MUHEBBULLAH, SAJEDA	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 03/17/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/783,932

**Applicant(s)**

KIKINIS ET AL.

**Examiner**

SAJEDA MUHEBBULLAH

**Art Unit**

2174

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 7, 9, 11, 12, 27 and 30-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 7, 9, 11, 12, 27 and 30-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This communication is responsive to Amendment filed 11/20/2008.
2. Claims 1, 3, 7, 9, 11-12, 27 and 30-39 are pending in this application. In the Amendment, claims 1, 3, 7, 9, 11 and 12 were amended, claims 13-14, 20, 25-26, and 28-29 were cancelled and claims 31-39 were added. This action is made Final.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 7, 9, 11-12, 27, 30-31, 33, 35-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkura et al. ("Ohkura", US 6,005,601) in view of Clark, Jr. et al. ("Clark", US 6,064,943).

As per claim 1, Ohkura teaches a computer-implemented method for displaying data associated with an electronic program guide, comprising:

displaying one or more programming content sliders, each slider having a slide knob and two ends, wherein each of the sliders corresponds to an aspect of programming content and comprises an associated set of content-related characteristics of broadcast programs (Fig.10, *slide knobs 100Y, 100Z*);

for each of the one or more programming content sliders, displaying a currently set value of the slider based on a position of the slider's slide knob in between the slider's ends (Fig.10, *slide knobs 100Y and 100Z currently set at "Terminator" and "All" respectively*),

displaying electronic program guide data corresponding to the currently set values of the one or more sliders, the electronic program guide data comprising a set of one or more broadcast programs having characteristics that match the currently set values of the one or more sliders (Fig.10; *AREA Y*);

receiving user input corresponding to a move of one of the slide knobs to a new position in between the ends of the corresponding programming content slider (col.6, lines 26-27);

updating the display of the programming content slider corresponding to the slide knob by changing the displayed value of the slider based on the new position of the slider knob in between the slider's ends (col.9, lines 13-17); and

updating the displayed electronic program guide data to correspond to changed value of the programming content slider corresponding to the slide knob, the updated electronic program guide data comprising a second set of one or more broadcast programs having characteristics that match the changed value of the slider (Fig.17; col.15, lines 12-25).

However, Ohkura does not teach sliders which are draggable. Clark teaches the display of movable slide knobs which may be dragged to change the value displayed (Clark, Fig.8, col.8, lines 25-30). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Clark's teaching with Ohkura's method as more convenient method of setting the programming time via the slide knob.

Independent claims 3, 7 and 9 are individually similar in scope to independent claim 1, and are therefore rejected under similar rationale.

As per claim 11, the method of Ohkura and Clark teaches the computer-implemented method further comprising, displaying the draggable slide knobs concurrently with the electronic program guide data (Ohkura, Fig.10, *slide knobs 100X1, 100X2, 100Y, 100Z*).

Claim 12 is similar in scope to claim 11, and is therefore rejected under similar rationale.

As per claim 27, the method of Ohkura and Clark teaches wherein the electronic program guide data corresponds to television program listings (Ohkura, Fig.6).

Claim 30 is similar in scope to claim 27, and is therefore rejected under similar rationale.

As per claim 31, the method of Ohkura and Clark teach the method of claim 1, wherein at least one of the programming content sliders corresponds to a genre slider with a draggable genre slide knob (Ohkura, Fig.10 (d-1)).

As per claim 33, the method of Ohkura and Clark teach the method of claim 1, wherein the received user input corresponds to a drag of the draggable slide knob of a first programming content slider, and wherein the method further comprises updating the display of a second programming content slider to modify the associated set of content-related characteristics for the second programming content slider based on changed value of the first programming content slider (Ohkura, Fig.17; col.15, lines 12-25).

As per claim 35, the method of Ohkura and Clark teach the method of claim 1, wherein displaying the currently set values of each of the draggable slide knobs comprises displaying each currently set value directly on the corresponding draggable slide knob (Ohkura, Fig.10, *slide knobs 100Y and 100Z currently set at "Terminator" and "Ali" respectively*).

Claim 36 is similar in scope to claim 31, and is therefore rejected under similar rationale.

Claim 38 is similar in scope to claim 33, and is therefore rejected under similar rationale.

5. Claims 32, 34, 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkura et al. ("Ohkura", US 6,005,601) and Clark, Jr. et al. ("Clark", US 6,064,943) in view of Schein et al. ("Schein", US 6,323,911).

As per claim 32, the method of Ohkura and Clark teach the method of claim 1, wherein one of the programming content sliders corresponds to one of a genre slider with a draggable genre slide knob. However, the method does not teach the slide knob to be an actor or a director slider with a draggable slide knob. Schein teaches a method of displaying program content wherein content may be viewed based on actor (Schein, col.13, lines 15-24). It would have been obvious to one of ordinary skill in the art at the time of the invention to include Schein's teaching with the method of Ohkura and Clark in order to filter content based on various criteria.

As per claim 34, the method of Ohkura and Clark teach the method of claim 33, wherein the first programming content slider corresponds to a genre slider (Ohkura, Fig.10, 100Z), and wherein the second programming content slider corresponds to a program slider (Ohkura, Fig.10, 100Y). However, the method does not teach the slider to be an actor or a director slider which is updated in response to the drag of the slide knob of the genre slider to display only actor values or director values that are associated with the changed value of the genre slider. Schein teaches a method of displaying program content wherein content may be viewed based on actor (Schein, col.13, lines 15-24). It would have been obvious to one of ordinary skill in the art at the time of

the invention to include Schein's teaching with the method of Ohkura and Clark in order to filter content based on various criteria.

Claim 37 is similar in scope to claim 27, and is therefore rejected under similar rationale.

Claim 39 is similar in scope to claim 34, and is therefore rejected under similar rationale.

### ***Response to Arguments***

6. Applicant's arguments filed 11/20/2008 have been fully considered but they are not persuasive.

Applicant argued the following:

- a) No motivation to combine Ohkura with Clark.
- b) Ohkura does not teach programming content sliders that are slideable or draggable.
- c) Clark does not teach a slider that corresponds to an aspect of programming content or comprises an associated set of content-related characteristics of broadcast programs.
- d) Schein does not teach a draggable slide knob.

The Examiner disagrees for the following reasons:

Per a), In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

1992). In this case, the method of Ohkura may be modified to include draggable slide knobs as those shown in Clark to set the time for programming content. It is very well known to move the cursor via keys or thru the dragging of the mouse.

Per b,c,d), In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this particular instance, Ohkura teaches the programming content where Clark is used to teach the draggable slide knobs. Schein may be combined to teach different content criteria for filtering programs.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



***Communications***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajeda Muhebbullah whose telephone number is **(571) 272-4065**. The examiner can normally be reached on Tuesday/Thursday and alt. Mondays from 8:30 am to 5:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong, can be reached on (571) 272-4124.

The central fax number for the organization where correspondence for this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Sajeda Muhebbullah***

***Patent Examiner***

***Art Unit 2174***

***/S. M./***

***/Stephen S. Hong/***

***Supervisory Patent Examiner, Art Unit 2178***